

1 THE HONORABLE JOHN C. COUGHENOUR
2
3
4
5
6

7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 FEDERAL TRADE COMMISSION,

11 CASE NO. C14-1038-JCC

12 Plaintiff,

13 ORDER

14 v.
15 AMAZON.COM, INC.,

Defendant.

16 This matter comes before the Court on the FTC's two motions to seal (Dkt. Nos. 25 and
17 37), and Defendant's responses (respectively, Dkt. Nos. 27 and 42). Having thoroughly
18 considered the parties' briefing and the relevant record, the Court finds oral argument
unnecessary and hereby GRANTS the first motion (Dkt. No. 25) and GRANTS in part the
second (Dkt. No. 37) for the reasons explained herein.

19
20 **I. DISCUSSION**

21 **A. Standard on Motion to Seal**

22 The Court starts from the position that “[t]here is a strong presumption of public access to
23 the court's files.” W.D. Wash. Local Civ. R. 5(g)(3). To rebut this presumption, the party seeking
24 to seal a document must file a motion that includes:

25 (A) a certification that the party has met and conferred with all other parties in an
26 attempt to reach agreement on the need to file the document under seal, to
minimize the amount of material filed under seal, and to explore redaction and

1 other alternatives to filing under seal; this certification must list the date, manner,
2 and participants of the conference; and

2 (B) a specific statement of the applicable legal standard and the reasons for
3 keeping a document under seal, with evidentiary support from declarations where
necessary.

4 *Id.* The present motions certify that the parties met and conferred. (Dkt. No. 25-1 at 2;
5 Dkt. No. 37-1 at 1.)

6 A party must demonstrate “compelling reasons” to seal judicial records attached to a
7 dispositive motion. *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006).
8 However, in a non-dispositive motion such as this, the Court need only find “good cause” to seal
9 a court record, and the “usual presumption of the public’s right of access is rebutted.” *In re*
10 *Midland Nat. Life Ins. Co. Annuity Sales Practices Litig.*, 686 F.3d 1115, 1119 (9th Cir. 2012).

11 **B. Exhibit I (Motion #1)**

12 The first motion to seal pertains to the document attached as Exhibit I to the FTC’s
13 pending Motion to Compel. (Dkt. No. 25-1 at 1.) Exhibit I is a confidential, internal PowerPoint
14 presentation used by Amazon. (Dkt. No. 26 *SEALED; Dkt. No. 27 at 3.) The presentation
15 includes confidential return-rate data as well as strategic proposals and solutions. (Dkt. No. 27 at
16 3.)

17 The Court finds good cause to keep Exhibit I filed under seal. The strategic planning and
18 financial information contained in Exhibit I is of a sensitive enough nature that it outweighs the
19 *de minimis* public interest in access to this particular document—which would largely be
20 commercial in nature. *See, e.g., Hill v. Xerox Corp.*, 2014 WL 1356212, at *1 (W.D. Wash. Apr.
21 7, 2014) (order sealing documents) (“the documents contain details about Defendants’ business
22 operations that would primarily be of interest for Defendants’ competitors”).

23 Accordingly, the FTC’s first motion to seal (Dkt. No. 25) is hereby GRANTED.

24 **C. Exhibit N (Motion #2)**

25 The second motion to seal pertains to what was attached as Exhibit N to the FTC’s Reply
26 in Support of its Motion to Compel, which is a confidential Amazon document containing

1 revenue and projected-revenue data as well as analysis and strategic discussion. (Dkt. No. 39
2 *SEALED; Dkt. No. 42 at 2.) Amazon has also filed a redacted and unsealed version of this
3 document as “Exhibit N-b,” (Dkt. No. 44 at 4–26) to which the FTC indicates it does not object.
4 (Dkt. No. at ¶ 6.) Finally, Amazon indicates that it does not object to unsealing the FTC’s reply
5 brief in support of its Motion to Compel (Dkt. No. 38). (See Dkt. No. 42 at 3.)

The Court similarly finds good cause to keep the unredacted version of Exhibit N filed under seal. This document contains planning and financial information and its sensitivity outweighs the public interest in access—particularly due to the availability of a public, redacted version of the document.

10 Accordingly, the Court hereby GRANTS the FTC's second motion to seal (Dkt. No. 37)
11 in part. While the document listed as Exhibit N (Dkt. No. 39) is to remain under seal, the Clerk
12 of Court is directed to UNSEAL the FTC's reply brief (Dkt. No. 38).

13 || II. CONCLUSION

14 For the foregoing reasons, Plaintiff's first motion to seal (Dkt. No. 25) is GRANTED,
15 and Plaintiff's second motion to seal (Dkt. No. 37) is GRANTED in part.

16 DATED this 27 day of July 2015.

John C. Coyne

**John C. Coughenour
UNITED STATES DISTRICT JUDGE**